

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re the Application of:) Group Art Unit: unknown
JOHNSON et al.) Examiner: unknown
Serial No.: Not Yet Assigned) REQUEST BY APPLICANTS FOR
Filed: July 18, 2003) INTERFERENCE PURSUANT TO 37 CFR
Atty. File No.: 3791-13-CON) § 1.607 AND UTILITY CONTINUATION
For: "LOW SULFUR COAL ADDITIVE) PATENT APPLICATION UNDER 37 CFR
FOR IMPROVED FURNACE) § 1.53(b)
OPERATION")
Assistant Commissioner for Patents) "EXPRESS MAIL" MAILING LABEL NUMBER: EV 331287046 US
Washington, D.C. 20231) DATE OF DEPOSIT: JULY 18, 2003
I HEREBY CERTIFY THAT THIS WITH THE UNITED STATES
POSTAL SERVICE "EXPRESS MAIL POST OFFICE TO
ADDRESSEE" SERVICE UNDER 37 C.F.R. 1.10 ON THE DATE
INDICATED ABOVE AND IS ADDRESSED TO THE ASSISTANT
COMMISSIONER FOR PATENTS, WASHINGTON, D.C. 20231.
TYPED OR PRINTED NAME: Chasity C. Rossum
SIGNATURE: Chasity C. Rossum

Dear Sir:

Applicants present the present Utility Continuation Application in conjunction with a Request By Applicants For Interference Pursuant to 37 C.F.R. § 1.607 wherein Applicants respectfully request that an interference be declared between the above application and U.S. Patent No. 6,484,651. The information required by 37 CFR § 1.607 (a) is set forth under headings which correspond to the subsections of 1.607 to facilitate consideration by the Examiner.

I. IDENTIFICATION OF THE PATENT WHICH INCLUDES SUBJECT MATTER WHICH INTERFERES WITH THE APPLICATION

The patent which claims subject matter which interferes with subject matter claimed in the above-mentioned continuation application ("the Johnson application") is U.S. Patent No. 6,484,651 ("the Shepard patent") issued on November 26, 2002 to Shepard et al. for METHOD FOR OPERATING A SLAG TAP COMBUSTION APPARATUS. The Shepard patent was issued on application Serial No. 09/684,125, filed October 6, 2000.

II. PRESENTATION OF A PROPOSED COUNT

Attached Appendix A sets forth three proposed counts. The proposed counts are phantom counts prepared after consideration of the subject matter claimed by the respective parties.

A phantom count is being proposed in part because of the different language utilized by the respective parties to describe the same invention.

III. IDENTIFICATION OF THE CLAIMS OF THE SHEPARD PATENT WHICH CORRESPOND TO THE PROPOSED COUNTS

Claims 1-4 of the Shepard patent are believed to correspond to proposed Count 1. Claims 23-25 of the Shepard patent are believed to correspond to proposed Count 2. Claims 5-22 and 26 of the Shepard patent are believed to correspond to proposed Count 3. In order to assist the Examiner, attached Appendix D sets forth a side-by-side comparison of the claims of the Shepard patent with the proposed counts.

IV. CLAIMS OF THE JOHNSON APPLICATION WHICH CORRESPOND TO THE PROPOSED COUNT

Claims 1-18 and 24-36 of Johnson are believed to correspond to proposed Count 1. Claims 19-23 of Johnson are believed to correspond to proposed Count 2. Claims 1-18 and 24-36 of Johnson are believed to correspond to proposed Count 3. To assist the Examiner in this regard, Applicants attach Appendices B and C. Appendix B is a chart providing an element-by-element recitation of the newly added claims of Johnson and an indication of the passages in the originally

filed application¹ where, at the very least, the claims find support. Appendix C is a chart providing a side-by-side comparison of claims 1-36 with the proposed counts.

V. 35 U.S.C. § 135(b) IS SATISFIED

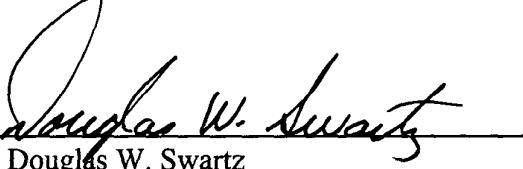
Less than a year has passed since the Shepard patent has issued. Accordingly, the requirements of 35 U.S.C. § 135(b) are met.

VI. CONCLUSION

Applicants respectfully request that an interference be declared employing the proposed counts set forth on Appendix A with claims 1-26 of the Shepard patent and claims 1-38 of the Johnson application designated as corresponding to the counts. Such action is respectfully requested.

Respectfully submitted,

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Date: July 18, 2003

¹The present Johnson application is a continuation from U.S. Patent Application No. 09/893,079 filed June 26, 2001; U.S. Divisional Application Serial No. 10/209,083, filed July 30, 2002; and U.S. Divisional Application Serial No. 10/209,089, all of which are entitled LOW SULFUR COAL ADDITIVE FOR IMPROVED FURNACE OPERATION, and which claim the benefit of U.S. Provisional Application Serial No. 60/213,915, filed June 26, 2000, entitled LOW COST TECHNOLOGY TO IMPROVE OPERATION OF CYCLONE FURNACES FIRING LOW-SULFUR WESTERN COALS. Accordingly, Johnson should be accorded benefit of these prior applications in the declaration of interference. Johnson should also be designated as the senior party in the interference as having the earlier effective filing date, i.e. June 26, 2000, versus October 6, 2000, for Shepard.